

AN ORDINANCE licensing and regulating massage parlors and related enterprises.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THIS CITY OF FORT WAYNE, INDIANA:

Section 1. Definitions.

1.1 For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) Employee. Any person over twenty-one (21) years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
- (b) Licensee. The person to whom a license has been issued to own or operate a massage establishment as defined herein.
- (c) Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor. Massage shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other colorant to any person.
- (d) Massage Establishment. Any establishment having a source of income or compensation derived from the practice of massage as defined in Subsection (c), and which has a fixed place of business where any person, firm, association, or corporation engages in or carries on any of the activities as defined in Subsection (c).
- (e) Massagist, Masseur or Masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as defined in Subsection (c).
- (f) Outcall Massage Service. Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in Subsection (c).

- (g) Patron. Any person over twenty-one (21) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.
- (h) Permittee. The person to whom a permit has been issued to act in the capacity of a massagist (masseur or masseuse) as herein defined.
- (i) Person. Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (j) Sexual or Genital Area. Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

## Section 2. Permit Required.

- 2.1 Business license required. It shall be unlawful for any person to engage in or carry out the business of massage unless he has a valid massage business license issued by the City pursuant to the provisions of this ordinance for each and every separate office or place of business conducted by such person.
- 2.2 Massagist's permit required. It shall be unlawful for any person to practice massage as a massagist, employee or otherwise, unless he has a valid and subsisting massagist's permit issued to him by the City pursuant to the provisions of this ordinance.

## Section 3. Exemptions.

3.1 This ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Indiana.
- (b) Nurses who are registered under the laws of this State.
- (c) Barbers and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

## Section 4. Zoning Restrictions.

4.1 No massage establishment shall be operated or conducted in any district not permitted by the Fort Wayne Zoning Ordinance, Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

## Section 5. Application for Massage Establishment License.

5.1 Every applicant for a license to maintain, operate, or conduct a massage establishment shall file an application

under oath with the City of Fort Wayne upon a form provided by the City Controller and pay a nonrefundable annual license fee, which shall be \$100 per year. Copies of the application shall within five (5) days be referred to the Zoning Department, the City/County Building Department, the City/County Board of Health, and the Fire Department. The departments shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the City Controller concerning compliance with the codes of the City of Fort Wayne that they administer. The application shall further be referred to the Police Department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

- (a) A definition of service to be provided.
- (b) The location, mailing address and all telephone numbers where the business is to be conducted.
- (c) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership)
  - (1) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
  - (2) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.
- (d) The two (2) previous addresses immediately prior to the present address of the applicant.
- (e) Proof that the applicant is at least twenty-one (21) years of age.
- (f) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.
- (g) Copy of identification such as driver's license and social security card.
- (h) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, including a limited partner in

said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Chief of Police or his agent.

- (i) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
- (j) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another City or State has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (k) All criminal convictions of applicant, (or in the case of a partnership, each partner, or in the case of a corporation its manager, officers, directors, and shareholders owning more than 10% of the stock of the corporation) involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.
- (l) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (c) wherein the business or profession of massage is carried on.
- (m) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (n) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (o) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

Upon the completion of the above provided form and the furnishing of all foregoing information and fees, the City Controller shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the City Controller of each change in any of the data required to be furnished by this Section within ten (10) days after such change occurs.

#### Section 6. Application for Massagist's Permits.

6.1 Application for a massagist's business permit shall be made to the City Controller in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of \$50.00 per year. The application shall contain but not be limited to the following:

- (a) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.
- (b) Social Security number, and date of birth.
- (c) Applicant's weight, height, color of hair and eyes, and sex.
- (d) Written evidence that the applicant is at least twenty-one (21) years of age.
- (e) All criminal convictions of applicant involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.
- (f) Fingerprints of the applicant taken by the Police Department.
- (g) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.
- (h) The message or similar business history and experience for the 10 years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another City of State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
- (i) A medical certificate signed by a physician, licensed to practice in the State of Indiana, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this Subsection shall be provided at the applicant's expense.
- (j) Such other information, identification and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.
- (k) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (l) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the City.

#### Section 7. Issuance of Massage Parlor Permit.

7.1 The City Controller, before issuing any license pursuant to this ordinance, shall investigate the character

of the applicant, and its officers, directors and manager if it is a corporation, as well as the premises upon which the business is sought to be conducted. A license shall be issued unless the City Controller shall find:

- (a) The correct permit or license fee has not been tendered to the City.
- (b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's Building, Zoning, and Health regulations, and with this ordinance.
- (c) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the State of Indiana that would have constituted any of the following offenses if committed within the State of Indiana.
  - (1) An offense involving the use of force and violence upon the person of another that amounts to a felony.
  - (2) An offense involving sexual misconduct.
  - (3) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City of Fort Wayne may issue a license or permit to any person convicted of any of the crimes described in Subsections (1), (2) or (3) of this Section if it finds that such conviction occurred at least five (5) years prior to the date of the application.

- (d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.
- (e) The applicant has had a massage business, massagist, or other similar permit or license denied, revoked, or suspended by the City or any other State or local agency within five (5) years prior to the date of the application.
- (f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of twenty-one (21) years.

- (g) That the applicant, if required by this ordinance to do so, cannot provide a certificate from a licensed medical practitioner certifying that the applicant is free from communicable diseases and that an examination has been made within seven (7) days prior to the date of the application.
- (h) That the application was not completely filled out or that the application was not correctly filled out.

7.2. Approval or Denial of Application. The City Controller shall act to approve or deny an application for a license or permit under this Ordinance within a reasonable period of time and in no event later than 90 days from the date that said application was accepted by the City Controller.

- (a) Upon the determination by the City Controller that the license applied for ought not to be issued pursuant to Section 7, a notice shall be sent to the applicant by certified mail stating the reason for the denial, and advising the applicant of the right to a hearing to appeal the denial and the right to correct any defect in the application or premises.
- (b) Any license issued for a massage therapist or employee may be revoked or suspended by the City Controller after notice and hearing for good cause. Cause for revocation includes all the grounds for which a license may be denied pursuant to Section 7.
- (c) Any license issued for an operator may be revoked or suspended for good cause by the City Controller after notice and hearing. Good cause for revocation includes:
  - (1) All the grounds for which a license may be denied pursuant to Section 7.
  - (2) The employment of unlicensed personnel.
  - (3) The conviction of an employee of the operator for a sex offense which act was committed on the premises of the operator, and of which act the operator had actual or constructive knowledge, by due diligence.
- (d) After a hearing on a written complaint filed pursuant to this ordinance against a licensee, if the City Controller determines that the license should be revoked or suspended, no refund of the license fee shall be made.

## Section 8. Hearings and Appeals.

- 8.1 When a hearing is requested by an applicant on denial of a license, not less than ten (10) days written notice of such hearing shall be given to the applicant which notice shall designate the time and place where the hearing will be held. Such hearing shall be public.

- 8.2 Where a hearing is set by the City Controller in a revocation or suspension procedure, the licensee shall receive not less than twenty (20) days written notice, which notice shall contain the charges made, as well as time and place where the hearing will be held.
- 8.3 At a hearing held under either Section 8.1 or Section 8.2, the applicant shall have the right to present witnesses, testify and cross-examine any other witnesses. Proceedings shall be conducted under oath.
- 8.4 The City Controller shall preside at the hearing and shall make the final determination.
- 8.5 If any decision adverse to the applicant or licensee is made by the City Controller after a hearing as provided above, the City Controller shall provide the applicant or licensee with a written reason for such decision as well as a notice of the applicant's or licensee's right to appeal to the Courts of the State of Indiana.
- 8.6 After hearing, the City Controller may grant, deny, revoke, suspend or take no action on a license. Suspension may be for no longer than the term remaining on the license.

#### Section 9. License Location.

- 9.1 All operators, massage therapists, and employees licensed under this ordinance shall display their licenses in a visible location in the establishment for which the license was issued or the establishment in which the licensees are employed.
- 9.2 Licenses shall be granted for an initial term ending May 31, next following the issuance of the license, unless sooner suspended or revoked. Such license must be renewed annually, and any renewal shall be for a term of one (1) year from June 1 to May 31.

#### Section 10. Transfer of License.

- 10.1 A licensed massage establishment may be moved to another location providing:
  - (a) The location meets all the requirements of this ordinance;
  - (b) The City Controller is notified in writing a minimum of thirty (30) days in advance of the move.

#### Section 11. Facilities Necessary.

- 11.1 No license to conduct a massage establishment shall be issued unless an inspection by the City of Fort Wayne reveals that the establishment complies with each of the following minimum requirements:



- (a) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Fort Wayne Building Code. Plumbing fixtures shall be installed in accordance with the City Plumbing Code.
  - (1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Fort Wayne.
  - (2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains).
  - (3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- (b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- (c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.
- (d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
- (e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap, and a dispenser and with sanitary towels.
- (f) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code.

#### Section 12. Operating Requirements.

- (a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, the use of which is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (e) No massage establishment granted a license under the provisions of this ordinance shall place, publish, or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

#### Section 13 Persons Under Age 21 Prohibited on Premises.

13.1 No person shall permit any person under the age of twenty-one (21) years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless such person is on the premises on lawful business.

#### Section 14. Hours.

14.1 No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 8:00 A.M.

#### Section 15. Employment of Massagist.

15.1 No person shall employ as a massagist any person unless said employee has obtained and has in effect a permit issued pursuant to this Ordinance.

#### Section 16. Inspection Required.

- 16.1 It shall be the duty of the City Controller through duly authorized representatives to inspect massage establishments from time to time for compliance with this ordinance.
- 16.2 Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected.
- 16.3 Upon showing the proper credentials, the representatives of the City Controller, including police officers, shall be entitled to inspect portions of the massage establishment open to the public for compliance with this ordinance.

Section 17. Unlawful Acts.

- 17.1 Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this Section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to Section 16. The requirements of this Subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.
- 17.2 It shall be unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (c) It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portions thereof, of any other person.
- 17.4 It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.
- 17.5 It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections 17.1, 17.2, 17.3 or 17.4 of this Section.
- 17.6 It shall be further unlawful for any permittee under this ordinance to administer massage on an outcall basis as defined in Section 1.1(f). Such person shall administer massage solely within an establishment licensed to carry on such business under this Ordinance. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the

date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business of the City of Fort Wayne shall be unlawful.

- 17.7 It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or area within a massage establishment which is fitted with a door capable of being locked.

Section 18. Name and Place of Business.

18.1 No person granted a license pursuant to this ordinance shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license.

Section 19. Time Limit for Filing.

19.1 All persons who presently operate a massage establishment or who are employed as a masseur or masseuse must file for a permit within sixty (60) days of the effective date of this article. Applications for renewal of permits must be filed not more than sixty (60) days nor less than thirty (30) days prior to termination of an existing permit.

Section 20. Violation and Penalty.

20.1 Any licensee under this ordinance violating any provision thereof shall be subject to license revocation pursuant to the provisions of Section 7.2(b) and 7.2(c).

20.2 Any person not holding a license under this ordinance who violates any provision thereof shall be subject to a fine not to exceed the sum of One thousand dollars (\$1,000.00). Each day such violation is committed or permitted to continue shall constitute a separate violation and a separate fine of up to One thousand dollars (\$1,000.00) may be assessed for each day of such violation.

Section 21. Maintaining Public Nuisance.

21.1 Any building used as a massage establishment in violation of this ordinance, with the actual or constructive knowledge of the owner thereof, or of the agent of the owner managing such building, together with all fixtures and other property used in conjunction with the operation of said

building, are hereby declared to be a public nuisance, and the same shall be abated pursuant to the provisions of the Fort Wayne City Code, Sec. 18-36.

Section 22. Severability.

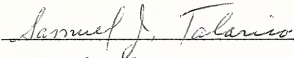
22.1 If any section, subsection, paragraph or part of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 23. Repeal

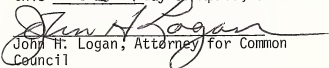
23.1 Upon the effective date of this Ordinance as provided in Section 24 hereof entitled "Effective Date", General Ordinance No. G-23-76 is hereby repealed in its entirety.

Section 24. Effective Date.

24.1 This Ordinance shall be in full force and effect from and after its approval by the Mayor and the legal publication thereof.

  
\_\_\_\_\_  
Councilman

Approved as to form and legality  
this 25<sup>th</sup> day of April, 1977

  
John H. Logan, Attorney for Common  
Council

Read the first time in full and on motion by Talarico, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on Public Relations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E. S. T.

DATE: 4/06/77

Charles W. Whitsturn  
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Hinga, and duly adopted, placed on its passage.  
PASSED (~~POST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>HUNTER</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 5-10-77

Charles W. Whitsturn  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ORDINANCE  
(~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE  
(~~RESOLUTION~~) No. 6-17-15 <sup>15-77</sup> on the 10th day of May, 1977  
ATTEST: (SEAL)

Charles W. Whitsturn  
CITY CLERK

John Spuckols  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of May, 1977, at the hour of 4:30 o'clock P M., E. S. T.

Charles W. Whitsturn  
CITY CLERK

Approved and signed by me this 18th day of May, 1977, at the hour of 9:45 o'clock A. M., E. S. T.

Robert E. Armstrong  
MAYOR

Bill No. G-77-04-36

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

We, your Committee on Public Relations to whom was referred an Ordinance  
licensing and regulating massage parlors and related enterprises

have had said Ordinance under Consideration and beg leave to report back to the Common  
Council that said Ordinance DO PASS.

Samuel Talarico - Chairman

James G. Stier - Vice Chairman

Vivian G. Schmidt

Winfield C. Moses, Jr. Winfield C. Moses, Jr.

Paul M. Burns

William T. Hinga

Donald J. Schmidt

Fredrick R. Hunter

John Nuckols John Nuckols

Samuel J. Talarico

William T. Hinga

Fredrick R. Hunter

5-10-77 CONCURRED IN  
DATE \_\_\_\_\_ CHARLES W. WESTERMAN, CITY CLERK

building, are hereby declared to be a public nuisance, and the same shall be abated pursuant to the provisions of the Fort Wayne City Code, Sec. 18-36.

Section 22. Severability.

22.1 If any section, subsection, paragraph or part of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 23. Effective Date.

23.1 ~~The amendments~~ to this ordinance shall be in full force and effect thirty (30) days after its approval by the Mayor and the legal publication thereof.

Approved as to form and legality  
this 25<sup>th</sup> day of April, 1977

John W. Logan, Attorney for Common  
Council

Section 23. Repeal  
23.1 Upon the effective date of this Ordinance as provided in Section 24 hereof entitled Effective Date General Ordinance No. 8-23-76 is hereby repealed in its entirety

Section 24 Effective Date

24.1 This Ordinance shall be in full force and effect from and after its approval by the Mayor and the legal publication thereof.

\_\_\_\_\_  
Councilman

approved as to form and  
legality this 25<sup>th</sup> day of April, 1977

\_\_\_\_\_  
Attorney for the Common Council





## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

room 122

charles w. westerman, clerk

May 23, 1977

Ms. Virginia Grace  
Fort Wayne Newspapers, Inc.  
600 West Main Street  
Fort Wayne, IN 46802

Dear Ms. Grace:

Please give the attached full coverage on the dates May 25 and June 1, 1977,  
in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common  
Council of Fort Wayne, IN

Massage Parlor Ordinance  
Bill No. G-77-04-36  
General Ordinance No. G-15-77

Notice of Public Hearing  
June 6, 1977

Please send us five (5) copies of the Publisher's Affidavit from both  
newspapers.

Thank you.

Sincerely,

Charles W. Westerman  
City Clerk

CWW/ne  
ENCL: 2



Notice is hereby given that on the 10th day of May, 1977, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-77-04-36, G-15, 77 General Ordinance, to-wit:

BILL NO. G-77-04-36

GENERAL ORDINANCE NO. G-15-

77

AN ORDINANCE licensing and regulating massage parlors and related enterprises.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THIS CITY OF FORT WAYNE, INDIANA:

Section 1. Definitions.

1.1 For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(a) Employee. Any person over twenty-one (21) years of age other than a massageist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

(b) Licensee. The person to whom a license has been issued to own or operate a massage establishment as defined herein.

(c) Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that if it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor. Massage shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other colorant to any person.

(d) Massage Establishment. Any establishment having a source of its income or compensation derived from the practice of massage as defined in Subsection (c), and which has a fixed place of business where any person, firm, association, or corporation engages in or carries on any of the activities as defined in Subsection (c).

(e) Massageist, Masseuse or Masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as defined in Subsection (c).

(f) Outcall Massage Service. Any business, the function of which is to engage in or carry on massage at a location designated by the customer or client rather than at a massage establishment as defined in Subsection (c).

(g) Patron. Any person over twenty-one (21) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(h) Permittee. The person to whom a permit has been issued to act in the capacity of a massageist (Masseur or Masseuse) as herein defined.

(i) Person. Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals to whatever form or character.

(j) Sexual & Genital Area. Genitalia, pubic area, buttocks, anus or vulva of any person, or the vulva or breasts of a female.

Section 2. Permit Required.

2.1 Business license required. It shall be unlawful for any person to engage in or carry out the business of massage unless he has a valid massage business license issued by the City pursuant to the provisions of this ordinance for each and every separate office or place of business conducted by such person.

2.2 Massageist's permit required. It shall be unlawful for any person to practice massage as a massageist, employee or otherwise, unless he has a valid and subsisting massageist's permit issued to him by the City pursuant to the provisions of this ordinance.

Section 3. Exemptions.

3.1 This ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Indiana.

(b) Nurses who are registered under the laws of this State.

(c) Barber and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

Section 4. Zoning Restrictions.

4.1 No massage establishment shall be operated or conducted in any district not permitted by the Fort Wayne Zoning Ordinance, Chapter 33 of the Code of the City of Fort

Section 3. Application for Massage Establishment License.

3.1 Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the City of Fort Wayne upon a form provided by the City Controller and pay a non-refundable annual license fee, which shall be \$100 per year. Copies of the application shall within five (5) days be referred to the Zoning Department, the City/County Building Department, the City/County Board of Health, and the Fire Department. The departments shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written notification to the City Controller concerning compliance with the codes of the City of Fort Wayne that they administer. The application shall further be referred to the Police Department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

(a) A definition of service to be provided.

(b) The location, mailing address and all telephone numbers where the business is to be conducted.

(c) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).

(1) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation; and the address of the corporation; and the address of the address of the massage establishment.

(2) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

(d) The two (2) previous addresses immediately prior to the present address of the applicant.

(e) Proof that the applicant is at least twenty-one (21) years of age.

(f) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.

(g) Copy of identification such as driver's license and social security card.

(h) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officer's and agent's fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Chief of Police or his agent.

(i) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

(j) The message or similar business license history of the applicant; whether such person, in previously operating in this or another City of State has had a business license revoked or suspended; the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(k) All criminal convictions of applicant, (or in the case of a partnership, each partner, or in the case of a corporation its manager, officers, directors, and shareholders owning more than 10% of the stock of the corporation) involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(l) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (c), wherein the business or profession of massage is carried on.

(m) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(n) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(o) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

Upon the completion of the above provided form and the furnishing of all foregoing information and fees, the City Controller shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the City Controller of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.

Section 4. Application for Massage Establishment's Permits.

4.1 Application for a massage's business permit shall be made to the City Controller in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massage's permit fee of \$50.00 per year. The application shall contain but not be limited to the following:

(a) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(b) Social Security number, and date of birth.

(c) Applicant's weight, height, color of hair and eyes, and sex.

(d) Written evidence that the applicant is at least twenty-one (21) years of age.

(e) All criminal convictions of applicant involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(f) Fingerprints of the applicant taken by the Police Department.

(g) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(h) The message or similar business history and experience for the 10 years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another City of State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(i) A medical certificate signed by a physician, licensed to practice in the State of Indiana, within seven (7) days of the date of the application. The certificate shall state that the ap

the annual non-refundable message fee of \$30.00 per year. The application shall contain but not be limited to the following:

(a) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(b) Social Security number, and date of birth.

(c) Applicant's weight, height, color of hair and eyes, and sex.

(d) Written evidence that the applicant is at least twenty-one (21) years of age.

(e) All criminal convictions of applicant involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(f) Fingerprints of the applicant taken by the Police Department.

(g) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(h) The message or similar business history and experience for the 10 years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another City of State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(i) A medical certificate signed by a physician, licensed to practice in the State of Indiana, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this Subsection shall be provided at the applicant's expense.

(j) Such other information, identification and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.

(k) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(l) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the City.

#### Section 7. Issuance of Massage Parlor Permit.

7.1 The City Controller, before issuing any license pursuant to this ordinance, shall investigate the character of the applicant, and its officers, directors and manager if it is a corporation, as well as the premises upon which the business is sought to be conducted. A license shall be issued unless the City Controller shall find:

(a) The correct permit or license fee has not been tendered to the City.

(b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's Building, Zoning, and Health regulations and with this ordinance.

(c) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used herein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the State of Indiana that would have constituted any of the following offenses if committed within the State of Indiana:

(1) An offense involving the use of force and violence upon the person of another that amounts to a felony.

(2) An offense involving sexual misconduct.

(3) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City of Fort Wayne may issue a license or permit to any person convicted of any of the crimes described in Subsection (1), (2) or (3) of this Section if it finds that such conviction occurred at least five (5) years prior to the date of the application.

(d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.

(e) The applicant has had a massage business, massageist or other similar permit or license denied, revoked, or suspended by the City or any other State or local agency within five (5) years prior to the date of the application.

(f) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of twenty-one (21) years.

(g) That the applicant, if required by this ordinance to do so, cannot provide a certificate from a licensed medical practitioner certifying that the applicant is free from communicable diseases and that an examination has been made within seven (7) days prior to the date of the application.

(h) That the application was not completely filled out or that the application was not correctly filled out.

7.2 Approval or Denial of Application. The City Controller shall act to approve or deny an application for a license or permit under this Ordinance within a reasonable period of time and in no event later than 90 days from the date that said application was accepted by the City Controller.

(a) Upon the determination by the City Controller that the license applied for ought not to be issued pursuant to Section 7, a notice shall be sent to the applicant by certified mail stating the reason for the denial, and advising the applicant of the right to a hearing to appeal the denial and the right to correct any defect in the application or premises.

(b) Any license issued for a massage therapist or employee may be revoked or suspended by the City Controller after notice and hearing for good cause. Cause for revocation includes all the grounds for which a license may be denied pursuant to Section 7.

(c) Any license issued for an operator may be revoked or suspended for good cause by the City Controller after notice and hearing. Good cause for revocation includes:

(1) All the grounds for which a license may be denied pursuant to Section 7.

(2) The employment of unlicensed personnel.

(3) The conviction of an employee of the operator for a sex offense which act was committed on the

premises of the operator, and of which act the operator had actual or constructive knowledge at the time.

days prior to the date of the application.  
(h) That the application was not completely filled out or that the application was not correctly filled out.  
7.2. Approval or Denial of Application. The City Controller shall act to approve or deny an application for a license or permit under this Ordinance within a reasonable period of time and in no event later than 90 days from the date that said application was accepted by the City Controller.  
(a) Upon the determination by the City Controller that the license applied for ought not to be issued pursuant to Section 7, a notice shall be sent to the applicant by certified mail stating the reason for the denial, and a hearing to appeal the denial and the right to correct any defect in the application or premises.  
(b) Any license issued for a massage therapist or employee may be revoked or suspended by the City Controller after notice and hearing for good cause. Cause for revocation includes all the grounds for which a license may be denied pursuant to Section 7.  
(c) Any license issued for an operator may be revoked or suspended for good cause by the City Controller after notice and hearing. Good cause for revocation includes:  
(1) All the grounds for which a license may be denied pursuant to Section 7.  
(2) The employment of unlicensed personnel.  
(3) The conviction of an employee of the operator for a sex offense which act was committed on the

premises of the operator, and of which act the operator had actual or constructive knowledge, by due diligence.  
(d) After a hearing on a written complaint filed pursuant to this ordinance against a licensee, if the City Controller determines that the license should be revoked or suspended, no refund of the license fee shall be made.  
Section 8. Hearings and Appeals.  
8.1 When a hearing is requested by an applicant on denial of a license, not less than ten (10) days written notice of such hearing shall be given to the applicant which notice shall designate the time and place where the hearing will be held. Such hearing shall be public.  
8.2 Where a hearing is set by the City Controller in a revocation or suspension procedure, the licensee shall receive not less than twenty (20) days written notice, which notice shall contain the charges made, as well as time and place where the hearing will be held.  
8.3 At a hearing held under either Section 8.1 or Section 8.2 the applicant shall have the right to present witnesses, testify and cross-examine any other witnesses. Proceedings shall be conducted under oath. 8.4  
The City Controller shall preside at the hearing and shall make the final determination.  
8.5 If any decision adverse to the applicant or licensee is made by the City Controller after a hearing as provided above, the City Controller shall provide the applicant or licensee with a written reason for such decision as well as a notice of the applicant's or licensee's right to appeal to the Courts of the State of Indiana.  
8.6 After hearing, the City Controller may grant, deny, revoke, suspend or take no action on a license. Suspension may be for no longer than the term remaining on the license. Section 9. License Location.  
9.1 All operators, massage therapists, and employees licensed under this ordinance shall display their licenses in a visible location in the establishment for which the license was issued or the establishment in which the licensee is employed.  
9.2 Licenses shall be granted for an initial term ending May 31, next following the issuance of the license, unless sooner suspended or revoked. Such license must be renewed annually, and any renewal shall be for a term of one (1) year from June 1 to May 31. Section 10. Transfer of License.  
10.1 A licensed massage establishment may be moved to another location providing:  
(a) The location meets all the requirements of this ordinance.  
(b) The City Controller is notified in writing a minimum of thirty (30) days in advance of the move. Section 11. Facilities Necessary.  
11.1 No license to conduct a massage establishment shall be issued unless an inspection by the City of Fort Wayne reveals that the establishment complies with each of the following minimum requirements:  
(a) Construction of rooms used for baths, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Fort Wayne Building Code. Plumbing fixtures shall be installed in accordance with the City Plumbing Code.  
(1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Fort Wayne.  
(2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains)  
(3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.  
(b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.  
(c) Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.  
(d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.  
(e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.  
(f) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code, Section 12. Operating Requirements.  
(a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.  
(b) Price rates for all services shall be prominently posted in the reception area in a location available to

(b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linen, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(f) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code, Section 15, Operating Requirements.

(g) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(h) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(i) All employees, including masseurs and masseuses, shall be clean and wear clean, non-transparent outer garments, covering the ad sexual angential areas, the use of which is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(j) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(k) No massage establishment granted a license under the provisions of this ordinance shall place, publish, or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

#### Section 13. Persons Under Age 21 Prohibited on Premises.

13.1 No person shall permit any person under the age of twenty-one (21) years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless such person is on the premises on lawful business. Section 14. Hours.

14.1 No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 6:00 A.M.

#### Section 15. Employment of Massageist.

15.1 No person shall employ as a massageist any person unless said employee has obtained and has in effect a permit issued pursuant to this Ordinance. Section 16. Inspection Required.

16.1 It shall be the duty of the City Controller through duly authorized representatives to inspect massage establishments from time to time for compliance with this ordinance.

16.2 Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected.

16.3 Upon showing the proper credentials, the representatives of the City Controller, including police officers, shall be entitled to inspect portions of the massage establishment open to the public for compliance with this ordinance.

#### Section 17. Unlawful Acts.

17.1 Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this Section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the nature of treatment, not to exceed ten (10), the date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to Section 16. The requirements of this Subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

17.2 It shall be unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

17.3 It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portions thereof, of any other person.

17.4 It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

17.5 It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections 17.1, 17.2, 17.3 or 17.4 of this Section.

17.6 It shall be further unlawful for any person under this ordinance to administer massage on an outcall basis as defined in Section 1.1 (1). Such person shall administer massage solely within an establishment licensed to carry on such business under this Ordinance. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness, is physically unable to travel to the massage establishment. Any outcall massage is performed under this exception, a record shall be made of date and hour of each treatment, and the name and address of the customer or client, and the name of the employee.

by State Board of Accounts

11 of Fort Wayne  
Governmental Unit)

on County, Ind.

General Form No. 99 P (Rev. 1967)

To JOURNAL-GAZETTE Dr.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) —number of equivalent lines



WESTERMAN  
CITY CLERK

Common Council of Fort Wayne  
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

939

2

941

## COMPUTATION OF CHARGES

941 lines, 1 columns wide equals 941 equivalent lines at .259 cents per line

\$ 243.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

1.50

TOTAL AMOUNT OF CLAIM

\$ 245.22

## DATA FOR COMPUTING COST

Width of single column 9.9 M ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Amelia De Kold

Date June 1, 1977

Title CLERK

## PUBLISHER'S AFFIDAVIT

State of Indiana }  
Allen County }

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows: 5/25 &amp; 6/1/77

Subscribed and sworn to before me this 1st day of June 1977  
Amelia De Kold  
Notary Public

My commission expires September 28, 1979

The petitioner has asked to be a day care center for the purpose of operating a day nursery.

asked to

Fort Wayne Journal-Gazette

as a

City

the

School in 1963. He has since

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Notice is hereby given that on the 10th day of May, 1977, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-77-04-36, G-15-77 General Ordinance, to wit:  
BILL NO. G-77-04-36  
GENERAL ORDINANCE NO. G-15-77

AN ORDINANCE licensing and regulating massage parlors and related enterprises.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THIS CITY OF FORT WAYNE, INDIANA:

Section 1. Definitions.

1.1 For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(a) Employee. Any person over twenty-one (21) years of age, other than a massageist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

(b) Licensee. The person to whom a license has been issued to own or operate a massage establishment as defined herein.

(c) Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person, on his or her behalf will pay money or give any other consideration or any gratuity therefor. Massage shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other cosmetic to any person.

(d) Massage Establishment. Any establishment having a source of income or compensation derived from the practice of massage as defined in Subsection (c), and which has a fixed place of business where any person, firm, association, or corporation engages in or carries on any of the activities as defined in Subsection (c).

(e) Massageist, Masseuse or Masseuse. Any person who, for any consideration whatsoever, engages in the practice of massage as defined in Subsection (c).

(f) Outcall Massage Service. Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in Subsection (c).

(g) Patron. Any person over twenty-one (21) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(h) Permittee. The person to whom a permit has been issued to act in the capacity of a massageist (Masseuse or masseuse) as herein defined.

(i) Person. Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals to whatever form or character.

(j) Sexual & Genital Area. Genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

Section 2. Permit Required.

2.1 Business license required. It shall be unlawful for any person to engage in or carry out the business of massage unless he has a valid massage business license issued by the

City pursuant to the provisions of this ordinance for each and every separate office or place of business conducted by such person.

2.2 Massageist's permit required. It shall be unlawful for any person to practice massage as a massageist employee or otherwise, unless he has a valid and subsisting massageist's permit issued to him by the City pursuant to the provisions of this ordinance.

Section 3. Exemptions.

3.1 This ordinance shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Indiana.

(b) Nurses who are registered under the laws of this State.

(c) Barbers and beauticians who are duly licensed under the laws of this State, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

Section 4. Zoning Restrictions.

4.1 No massage establishment shall be operated or conducted in any district not permitted by the Fort

Wayne Zoning Ordinance, Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

Section 5. Application for Massage Establishment License.

5.1 Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the City of Fort Wayne upon a form provided by the City Controller and pay a non-refundable annual license fee, which shall be \$100 per year. Copies of the application shall within five (5) days be referred to the Zoning Department, the City/County Board of Health, and the Fire Department. The departments shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment.

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(a) A definition of service to be provided.

(b) The location, mailing address and all telephone numbers where the business is to be conducted.

(c) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include an applicant which may be a corporation or partnership).

(1) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.

(2) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

(c) The two (2) previous addresses immediately prior to the present address of the applicant.

(e) Proof that the applicant is at least twenty-one (21) years of age.

(f) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.

(g) Copy of identification such as driver's license and social security card.

(h) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officer's and agents' fingerprints which shall be taken by the Chief of Police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partners' fingerprints which shall be taken by the Chief of Police or his agent.

(i) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

(j) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another City of State has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(k) All criminal convictions of applicant, (or in the case of a partnership, each partner, or in the case of a corporation its managers, officers, directors, and shareholders owning more than 10% of the stock of the corporation) involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(l) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in Subsection (c) wherein the business or profession of massage is carried on.

(m) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(n) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(o) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

Upon the completion of the above provided form and the furnishing of all foregoing information and fees, the City Controller shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the City Controller of each change in any of the data required to be furnished by this Section within ten (10) days after such change occurs.

Section 5. Application for Massageist's Permits.

5.1 Application for a massageist's business permit shall be made to the City Controller in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massageist's permit fee of \$50.00 per year. The application shall contain but not be limited to the following:

(a) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(b) Social Security number, and date of birth.

(c) Applicant's weight, height, color of hair and eyes, and sex.

(d) Written evidence that the applicant is at least twenty-one (21) years of age.

(e) All criminal convictions of applicant involving any act of violence, moral turpitude, sex offense, or prior violation of this ordinance, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(f) Fingerprints of the applicant taken by the Police Department.

(g) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(h) The massage or similar business history and experience for the 10 years prior to the date of application, including but not limited to whether or not such person in previously operation in this or another City of State

graphs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(h) The message or similar business history and experience for the 10 years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another City of State under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(i) A medical certificate signed by a physician, licensed to practice in the State of Indiana, within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this Subsection shall be provided at the applicant's expense.

(j) Such other information, identification and physical examination of the person deemed necessary by the Police Chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.

(k) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(l) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the City.

#### Section 7. Issuance of Massage Parlor Permit.

7.1 The City Controller, before issuing any license pursuant to this ordinance, shall investigate the character of the applicant, and its officers, directors and manager. If it is a corporation, as well as the premises upon which the business is sought to be conducted. A license shall be issued unless the City Controller shall find:

(a) The correct permit or license fee has not been tendered to the City.

(b) The operation, as proposed by

the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's Building, Zoning, and Health regulations and with this ordinance.

(c) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation; any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, or any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of an offense without the State of Indiana that would have constituted any of the following offenses if committed within the State of Indiana.

(1) An offense involving the use of force and violence upon the person of another that amounts to a felony.

(2) An offense involving sexual misconduct.

(3) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to an felony.

The City of Fort Wayne may issue a license or permit to any person convicted of any of the crimes described in Subsection (1), (2) or (3) of this

Section if it finds that such conviction occurred at least five (5) years prior to the date of the application.

(d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.

(e) The applicant has had a massage business, massage(s) or other similar permit or license denied, revoked, or suspended by the City or any other State or local agency within five (5) years prior to the date of the application.

(f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of twenty-one (21) years.

(g) That the applicant, if required by this ordinance to do so, cannot provide a certificate from a licensed medical practitioner certifying that the applicant is free from communicable diseases and that an examination has been made within seven (7) days prior to the date of the application.

(h) That the application was not completely filled out or that the ap-

plication was not correctly filled out.

7.2. Approval or Denial of Application. The City Controller shall act to approve or deny an application for a license or permit under this Ordinance within a reasonable period of time and in no event later than 90 days from the date that said application was accepted by the City Controller.

(a) Upon the determination by the City Controller that the license applied for ought not to be issued pursuant to Section 7, a notice shall be sent to the applicant by certified mail stating the reason for the denial, and advising the applicant of the right to a hearing to appeal the denial and the right to correct any defect in the application or premises.

(b) Any license issued for a massage therapist or employee may be revoked or suspended by the City Controller after notice and hearing for good cause. Cause for revocation includes all the grounds for which a license may be denied pursuant to Section 7.

(c) Any license issued for an operator may be revoked or suspended for good cause by the City Controller after notice and hearing. Good cause for revocation includes:

(1) All the grounds for which a license may be denied pursuant to Section 7.

(2) The employment of unlicensed personnel.

(3) The conviction of an employee of the operator for a sex offense which act was committed on the premises of the operator, and of which act the operator had actual or constructive knowledge, by due diligence.

(d) After a hearing on a written complaint filed pursuant to this ordinance against a licensee, if the City Controller determines that the license should be revoked or suspended, no refund of the license fee shall be made.

#### Section 8. Hearings and Appeals.

8.1 When a hearing is requested by an applicant on denial of a license, not less than ten (10) days written notice of such hearing shall be given to the applicant which notice shall designate the time and place where the hearing will be held. Such hearing shall be public.

8.2 Where a hearing is set by the City Controller in a revocation or suspension procedure, the licensee shall receive not less than twenty (20) days written notice, which notice shall contain the charges made, as well as time and place where the

City Controller in a revocation or suspension procedure, the licensee shall receive not less than twenty (20) days written notice, which notice shall contain the charges made, as well as time and place where the hearing will be held.

8.3 At a hearing held under either Section 8.1 or Section 8.2 the applicant shall have the right to present witnesses, testify and cross-examine any other witnesses. Proceedings shall be conducted under oath. 8.4

The City Controller shall preside at the hearing and shall make the final determination.

8.5 If any decision adverse to the applicant or licensee is made by the City Controller after a hearing as provided above, the City Controller shall provide the applicant or licensee with a written reason for such decision as well as a notice of the applicant's or licensee's right to appeal to the Courts of the State of Indiana.

8.6 After hearing, the City Controller may grant, deny, revoke, suspend or take no action on a license. Suspension may be for no longer than the term remaining on the license. Section 9. License Location.

9.1 All operators, massage therapists, and employees licensed under this ordinance shall display their licenses in a visible location in the establishment for which the license was issued or the establishment in which the licensee is employed.

9.2 Licenses shall be granted for an initial term ending May 31, next following the issuance of the license, unless sooner suspended or revoked. Such license must be renewed annually, and any renewal shall be for a term of one (1) year from June 1 to May 31. Section 10. Transfer of License.

10.1 A licensed massage establishment may be moved to another location providing:

(a) The location meets all the requirements of this ordinance.

(b) The City Controller is notified in writing a minimum of thirty (30) days in advance of the move. Section 11. Facilities Necessary.

11.1 No license to conduct a massage establishment shall be issued unless an inspection by the City of Fort Wayne reveals that the establishment complies with each of the following minimum requirements:

(a) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Fort Wayne Building Code. Plumbing fixtures shall be installed in accordance with the City Plumbing Code.

(1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Fort Wayne.

(2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception)

Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

(3) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(d) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(f) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code, Section 12. Operating Requirements.

(a) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees, including maids and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the full sexual genital areas, the use of which is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(e) No massage establishment granted a license under the provisions of this ordinance shall place, publish, or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

Section 13. Persons Under Age 21 Prohibited on Premises.

13.1 No person shall permit any person under the age of twenty-one (21) years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless such person is on the premises on lawful business. Section 14. Hours.

14.1 No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 8:00 A.M. Section 15. Employment of Massageist.

15.1 No person shall employ as a massageist any person unless said employee has obtained and has in effect a permit issued pursuant to this Ordinance. Section 16. Inspection Required.

16.1 It shall be the duty of the City Controller to cause authorized representatives from time to time to inspect massage establishments for compliance with this ordinance.

16.2 Inspections are to be made at reasonable times, with due regard to the nature of the business to be inspected.

16.3 Upon showing the proper credentials, the representatives of the City Controller, including police officers, shall be permitted to enter the

reasonable times, with due regard to be inspected.

1.63 Upon showing the proper credentials, the representatives of the City Controller, including police officers, shall be entitled to inspect portions of the message establishment open to the public for compliance with this ordinance.

Section 17. Unlawful Acts.  
17.1 Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this Section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to Section 15. The requirements of this Subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

17.2 It shall be unlawful for any person, in a massage parlor, to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

17.3 It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portions thereof, to any other person.

17.4 It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

17.5 It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections 17.1, 17.2, 17.3 or 17.4 of this Section.

17.6 It shall be further unlawful for any permittee under this ordinance to administer massage on an outcall basis as defined in Section 1.1 (1). Such person shall administer massage solely within an establishment licensed to carry on such business under this Ordinance. Any violation of these provisions shall be deemed grounds for revocation of the permit or other hereunder. The restriction of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment, if any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business of the City of Fort Wayne shall be unlawful.

17.7 It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or area within a massage establishment which is fitted with a door capable of being locked. Section 18. Name and Place of Business.

18.1 No person granted a license pursuant to this ordinance shall operate the massage establishment under a name not specified in license, nor shall he conduct business under any designation or location not specified in his license. Section 19. Time Limit for Filing.

19.1 All persons who presently operate a massage establishment or who are employed as a masseuse or masseur must file for a permit within sixty (60) days of the effective date of this article. Applications for renewal of permits must be filed not more than sixty (60) days nor less than thirty (30) days prior to termination of an existing permit.

Section 20. Violation and Penalty.  
20.1 Any licensee under this ordinance who violates any provision thereof shall be subject to license revocation pursuant to the provisions of Section 7 (1) (a) and 7 (2) (c).

20.2 Any person not holding a license under this ordinance who violates any provision thereof shall be subject to a fine not to exceed the sum of One thousand dollars (\$1000.00). Each day such violation is committed or permitted to continue shall constitute a separate violation and a separate fine up to One thousand dollars (\$1000.00) may be assessed for each day of such violation.

Section 21. Maintaining Public Nuisance.

21.1 Any building used as a massage establishment in violation of this ordinance, with the actual or constructive knowledge of the owner thereof, or of the agent of the owner managing such building, shall be deemed a public nuisance, and the same shall be abated pursuant to the provisions of the Fort Wayne City Code, Sec. 19-36, Section 22. Severability.

22.1 If any section, subsection, paragraph or part of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 23. Repeal.  
23.1 Upon the effective date of the Ordinance as provided in Section 2, the General Ordinance No. 2-2-2 is hereby repealed in its entirety. Section 2. Effective Date.

24.1 This Ordinance shall be in full force and effect from and after the approval by the Mayor and the legal publication thereof. Samuel J. Talarico, Councilman.

Read the third time in full and on motion by Talarico, seconded by Whith, and duly adopted, placed on its passage PASSED by the following vote:

Ayes: Nine Burns, Hinga, Hunter, Adams, Nuckels, D. Schmidt, E. Schmidt, Siler, Talarico.

Nays: None.

Date: 5-10-77 Charles W. Westerman City Clerk.

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana.

by State Board of Accounts

City of Fort Wayne  
Governmental Unit)

City of Fort Wayne, Indiana

To: THE NEWS-SENTINEL Dr.

FORT WAYNE, INDIANA

### PUBLISHER'S CLAIM

any Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

number of lines

number of lines

number of lines

Total number of lines in notice

### OF CHARGES

1 lines, 1 columns wide equals 941 equivalent lines at .2594 cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

### PUTTING COST

9.9 of single column 1 ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Provision and penalties of Ch. 89, Acts 1967,

that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just part of the same has been paid.

V.E. Gerkken

1, 19 77

Title CLERK

### PUBLISHER'S AFFIDAVIT

State of Indiana  
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK of the NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time on the dates of publication being as follows: 5/23/77 & 6/2/77



of this article Applications for renewal of permits must be filed not more than thirty (30) days prior to termination of an existing permit.

Section 20. Violation and Penalty.  
20.1 Any licensee under this ordinance who violates any provision thereof shall be subject to license revocation pursuant to the provisions of Section 7.2 (b) and 7.3(c).

20.2 Any person not holding a license under this ordinance who violates any provision thereof shall be subject to a fine not to exceed the sum of One thousand dollars (\$1000.00). Each day such violation is committed or permitted to continue shall constitute a separate violation and a separate fine up to One thousand dollars (\$1000.00) may be assessed for each day of such violation.

Section 21. Maintaining Public Nuisance.

21.1 Any building used as a massage establishment in violation of this ordinance, with the actual or constructive knowledge of the owner thereof, or of the agent of the owner managing such building, together with all fixtures and other property used in conjunction with the operation of said building, are hereby declared to be a public nuisance, and the same shall be abated pursuant to the provisions of the Fort Wayne City Code, Sec. 18-34, Section 22, Severability.

22.1 If any section, subsection, paragraph or part of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 23. Repeal

23.1 Upon the effective date of the Ordinance as provided in Section 24 hereof entitled "Effective Date", General Ordinance No. G-2376 is hereby repealed in its entirety. Section 24. Effective Date.

24.1 This Ordinance shall be in full force and effect from and after its approval by the Mayor and the legal publication thereof. Samuel J. Talarico Councilman

Read the third time in full and on motion by Talarico, seconded by Hinga, and duly adopted, passed on its passage. PASSED by the following vote:

Ayes: Nine Burns, Hinga, Hunter, Moses, Nuckolls, D. Schmidt, V. Schmidt, Star, Talarico  
Nays: None  
Date: 5-18-77 Charles W. Westernman City Clerk

Passes and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-15-77 on the 10th day of May, 1977. Attest: (Seal)

Presented by me to the Mayor of the City of Fort Wayne, Indiana on the 11th day of May, 1977, at the hour of 4:30 o'clock P.M., E.S.T. Charles W. Westernman City Clerk

Approved and signed by me this 18th day of May, 1977, at the hour of 9:45 o'clock A.M., E.S.T. Robert E. Armstrong Mayor

Charles W. Westernman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-15-77 passed by the Common Council on the 10th day of May, 1977, and that said Ordinance was duly signed and approved by the Mayor on the 11th day of May, 1977 and now remains on file and on record in my office. WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 18th day of May, 1977.

CHARLES W. WESTERMAN  
CITY CLERK

TOTAL AMOUNT OF CLAIM

PUTTING COST

of single column 8 cms

per of insertions 2

provision and penalties of Ch. 89, Acts 1967,

that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just so part of the same has been paid.

1, 19 77

PUBLISHER'S AFFIDAVIT

State of Indiana  
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned V. E. GERKEN who, being duly sworn, says that she is CLERK of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 5, the dates of publication being as follows:

5/25/ & 6/2/77

Subscribed and sworn to before me this 1st day of June 1977

Notary Public

My commission expires September 26, 1979

**Common Council of Fort Wayne**  
(Governmental Unit)

TO THE NEWS-SENTINEL

Dr.

Allen

County, Ind.

FORT WAYNE, INDIANA

## PUBLISHER'S CLAIM

## LINE COUNT

**Display Matter** (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)  
— number of equivalent lines

Head	number of lines
1	1
2	2
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Body	number of lines
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**Tail**      number of lines

Total number of lines in notice

### COMPUTATION OF CHARGES

941 lines, 1 columns wide equals 941 equivalent lines at .2594 cents per line

• 243.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

1.50

TOTAL AMOUNT OF CLAIM

• 245.22

### DATA FOR COMPUTING COST

Width of single column **9.9** ems

Size of type  $5\frac{1}{2}$  point

Number of insertions.....2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

V. E. Gibson

Date **June 1** 19 **77**

Title ..... CLERK

## PUBLISHER'S AFFIDAVIT

State of Indiana } ss:  
ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK of the

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 8, the dates of publication being as follows:

Subscribed and sworn to before me this 1st day of June 1977  
Harry V. O'Neil  
 Notary Public

My commission expires September 28, 1979

Notary Public